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EXAMINER

HOYE, MICHAEL W

ART UNIT PAPER NUMBER

2614

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/734,996	Applicant(s) BRASSIL, JOHN T.	
	Examiner Michael W. Hoyer	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because the informal figures have poor line quality. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 130 in Fig. 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should

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include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The disclosure is objected to because of the following informalities: on page 11, in lines 23 and 26, the drawing reference number for sub-system "240" in Fig. 4 appears to be a typographical error and should be --420--, and on page 12, in the 3<sup>rd</sup> paragraph, beginning in line 12, the text states that, "If no action is required for the cue, then the processing proceed to step 500." However, in Fig. 5, the processing is shown to proceed to 540 then to 500. Either a correction to the specification or a correction to Fig. 5 is required.

Appropriate correction is required.

### *Claim Objections*

3. Claim 7 is objected to because of the following informalities: the claim is the same as claim 4 and should be canceled or amended to include different claim language. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-11 and 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Flavin (USPN 6,005,603), cited by the Examiner.

As to claim 1, note the Flavin reference which discloses a streaming media server (109 or 110 as shown in Figs. 1 and 2) for providing a plurality of media streams (col. 2, lines 58-65; col. 3, lines 17-35 and col. 4, lines 23-52). The claimed cue generator is met by the segment announcer 110 (Figs. 1 and 2, and sections listed above) for receiving an event detected signal and configuration information is met by content streams 112 and descriptive information (col. 2, lines 58-65; col. 3, lines 17-35 and col. 4, lines 23-52), and the claimed based thereon for generating a cue having a predefined structure is met by the segment announcer and announcement 115 (col. 3, lines 17-35, col. 4, lines 23-52 and col. 5, lines 11-38); the claimed wherein the cue can be used by a stream processing application (SPA) to receive information concerning an event whose timing is important to the receiver is met by the application(s) provided by the server 110 or segment announcer 110 (col. 4, line 35 – col. 5, line 37).

As to claim 2, the claimed cue includes one of program timing, program structure, program identity, start time of a media program, and stop time of a media program is met by the program timing, structure, identity, start time, and end time of a program (see col. 3, lines 37-40, col. 4, line 65 – col. 5, line 30, col. 5, line 63 – col. 6, line 7).

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As to claim 3, the claimed stream processing application (SPA) is a program recording application is met by the recording applications as described in the example in col. 4, line 65 – col. 5, line 10.

As to claim 4, the claimed stream processing application (SPA) is a program insertion application is met by, in one example, inserting text on a TV or computer screen (col. 6, lines 30-36).

As to claim 5, the claimed stream processing application (SPA) is a program modification application is met by various examples in the reference, including eliminating commercials, turning the sound on or off, turning the picture on or off, displaying text on a TV or computer screen, sounding an alarm, etc. (see col. 4, line 65 – col. 5, line 10 and col. 6, lines 30-36)..

As to claim 6, the claimed stream processing application (SPA) is a program adaptation application is met by adapting to a program or broadcast associated with a geographic region or location (col. 5, lines 11-16).

As to claim 7, the claim is rejected based on the rejection of claim 4 respectively.

As to claim 8, the claimed cue includes time sensitive program information is met by time information transmitted with each announcement 115 (col. 5, lines 17-31 and col. 5, line 48 – col. 6, line 4).

As to claim 9, the claimed cue includes a cue type that is one of an event notification cue, an event pending cue, an event termination cue, and an event continuing cue, and a user-defined custom cue is met by the announcements 115 and segment content information 350 (col. 5, line 17 – col. 6, line 4).

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As to claim 10, the claimed predefined structure of the cue includes at least one of the following fields: an event type field for specifying an event type is met by an announcement 115, a segment identifier section 320, and/or the segment content information 350 (col. 5, lines line 17 – col. 6, line 4); a cue type field for specifying a cue type is met by the announcement type field 405 (col. 6, lines 19-20); a number field for specifying a number that in combination with the event type specified by the event type field uniquely describes an event is met by the message tag 311 (col. 5, lines 39-44); a duration field for specifying the time remaining before completion of a specified event is met by the interval information (col. 5, lines 32-37); a time field for specifying time information is met by time field 321 (col. 5, lines 48-53); and a variable-length label field for storing text suitable for display is met by the variable length announcement content 353 field (col. 5, line 67 – col. 6, line 7).

As to claim 11, the claimed event type field is one of an advertisement event type, a video-frame event type, an interstice event type, an audio-track event type, an audio-segment event type, an video-segment event type cue, program-title event type, program-description event type, program-label event type, content-type event type, program-advisory, and user-defined event type is met by the announcement 115, segment identifier section 320, and/or segment content information 350, as described above which disclose various event types as listed (see col. 5, lines line 17 – col. 6, line 4).

As to claim 13, note the Flavin reference which discloses a method for delivering program timing, structure, and identity information in media streams. The claimed identifying an event in the media stream is met by the streaming media server (109 or 110 as shown in Figs. 1 and 2), which identifies an event in the media stream (col. 2, lines 58-65; col. 3, lines 17-35

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and col. 4, lines 23-52), determines if the event is a structural point based on the configuration information is met by using the content streams 112 and descriptive information (col. 2, lines 58-65, col. 3, lines 36-40, col. 4, lines 23-52 and col. 5, line 11 – col. 6, line 7), and generating a cue packet to represent the structural point is met by the segment announcer 110 and announcement 115 (Figs. 1 and 2, col. 3, lines 17-35, col. 4, lines 23-52 and col. 5, lines 11-38).

As to claim 14, the claimed step of generating a cue packet to represent the structural point includes one of a generating the cue packet automatically is met by automatic generation as described in col. 4, lines 38-52; and the claimed generating the cue packet manually with a user-operated trigger is met by a user or users generating the cues (col. 2, line 58 – col. 3, line 16, col. 4, lines 35-37).

As to claim 15, the claimed receiving a packet; determining whether the packet is a cue packet; when the packet is a cue packet, then determining if the cue packet triggers an action based on predetermined configuration parameters; when the cue packet triggers an action, using information from the cue packet to perform a function; otherwise, discarding the cue packet is met by the description in col. 6, lines 30-67, also see col. 4, lines 3-22 and col. 4, line 65 – col. 5, line 10.

As to claim 16, note the Flavin reference which discloses a content distribution network. The claimed media server for broadcasting at least one media stream having at least one structural point is met by the streaming media server (109 or 110 as shown in Figs. 1 and 2), which broadcasts a media streams (content streams 112) and descriptive information (col. 2, lines 58-65, col. 3, lines 36-40, col. 4, lines 23-52 and col. 5, line 11 – col. 6, line 7); and a server-side cue handling mechanism for delivering program timing, structure, and identity



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information related to the media stream in the form of a cue packet is met by the segment announcer 110 and announcement 115 (Figs. 1 and 2, col. 3, lines 17-35, col. 4, lines 23-52 and col. 5, lines 11-38).

As to claim 17, the claimed a client-side cue handling mechanism for receiving packets, determining that a particular packet is a cue packet, and decoding program tuning, structure, and identity information from the cue packet is met by receivers 150 and function 170 (col. 4, lines 3-22, col. 4, line 65 – col. 6, line 7 and lines 30-67).

As to claim 18, the claimed application coupled to the client-side cue handling mechanism for using the program timing, structure, and identity information of the media stream to perform an application function is met by receivers 150 and function 170 as described above in claim 17 (see col. 4, lines 3-22, col. 4, line 65 – col. 6, line 7 and lines 30-67).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flavin.

As to claim 12, the claimed date field includes data information encoded with a Society of Motion Picture and Television Engineer's (SMPTE) date encoding and wherein the time field includes time information encoded with a Society of Motion Picture and Television Engineer's

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(SMPTE) time encoding is not explicitly disclosed by the Flavin reference. However, the Examiner takes Official Notice that it is notoriously well known in the art of media or video distribution to include time and date fields with data information encoded with SMPTE date and time encoding for the advantage of having time and date codes that conform to SMPTE standards, which are well known and used in the video industry and may be useful for identifying video frames and timing information, especially, for video editing purposes. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have included a date field that includes data information encoded with a Society of Motion Picture and Television Engineer's (SMPTE) date encoding and wherein the time field includes time information encoded with a Society of Motion Picture and Television Engineer's (SMPTE) time encoding for the advantages given above.

As to claim 19 and corresponding claims 20-22, the claimed intermediary stream processing application for receiving the media stream, processing the media stream, and re-transmitting the media stream to one of other intermediary stream processing application and a client-side cue handling mechanism, as described in claim 19, is not explicitly disclosed by the Flavin reference. In addition to, the claimed processing the media stream includes processing at least one cue packet (claim 20), the claimed wherein re-transmitting the media stream to one of other intermediary stream processing application and receivers includes adding at least one cue packet to the media stream (claim 21), and the claimed wherein re-transmitting the media stream to one of other intermediary stream processing application and receivers includes removing at least one cue packet to the media stream (claim 22), are not explicitly disclosed in the Flavin reference. However, the Examiner takes Official Notice that it is notoriously well known in the

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art of media and/or interactive video distribution systems to include sub-headends, regional headends, and/or local headends in order to perform intermediary stream processing applications, such as processing at least one cue packet, adding at least one cue packet to the media stream, or removing at least one cue packet to the media stream for the advantage of providing regional or local modifications to media streams as determined by cue packets in order to provide more specific content to a user or group of users which may have more specific characteristics or attributes associated therewith. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have included an intermediary stream processing application for receiving the media stream, processing the media stream, and re-transmitting the media stream to one of other intermediary stream processing applications and a client-side cue handling mechanism, as well as, processing at least one cue packet, adding at least one cue packet to the media stream, or removing at least one cue packet to the media stream for the advantages given above.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellis et al. (US 2002/0054068 A1) – Discloses systems and methods for reducing cut-offs in program recording.

Sequeira (US 2001/0000194 A1) – Discloses a system and method for a master scheduler.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is (571) 272-7346.

The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (571) 272-7353.

**Any response to this action should be mailed to:**

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Alexandria, VA 22314

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (571) 272-2600.

Michael W. Hoye  
March 20, 2005



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600